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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,100	09/10/2003	Paul Albert Sagel	9031	4328

27752 7590 05/29/2008  
THE PROCTER & GAMBLE COMPANY  
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EXAMINER

ROBERTS, LEZAH

ART UNIT

PAPER NUMBER

1612

MAIL DATE

DELIVERY MODE

05/29/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/659,100

**Applicant(s)**

SAGEL ET AL.

**Examiner**

LEZAH W. ROBERTS

**Art Unit**

1612

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 March 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 7-10 and 19-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 7-10 and 19-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

## DETAILED ACTION

This Office Action is in response to the Amendment filed March 7, 2008. All previous rejections have been withdrawn unless stated below.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### *Claims*

#### **Claim Rejections - 35 USC § 102 – Anticipation (New Rejection)**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 8-10, 19, 20, 22, and 28-32 are rejected under 35 U.S.C. 102(e) as being anticipated by Willison et al. (US 2004/0005277).

Willison et al. discloses devices for carrying oral care agents. The oral care agents include whitening agents such as hydrogen peroxide (paragraph 108). The polymers used to make the oral care layer include polyvinylpyrrolidone (paragraph 0083). Oral care layer may also be comprised of a mixture of hydrophilic polymers. Plasticizers include any of the glycols (paragraph 0082). The devices comprise an oral

care agent comprising a scrim. The scrim may comprise polymers such as polyolefins like polyethylene and polypropylene (paragraph 0085 and paragraph 0086). Suitable perforated sheetlike materials for forming the scrim include fine pitch polypropylene net (paragraph 0087). In a preferred embodiment, the scrim is embedded in the oral care layer. The scrim can be sandwiched between two layers of material that make up the oral care layer. The oral care layer can also be extruded directly onto the scrim, whereupon the melted material comprising the oral care layer flows through and around the openings in the scrim material. Upon cooling of the melted oral care layer material, the scrim is entirely surrounded by the oral care layer (paragraph 0089), encompassing the fibers being coated in claims 28-32. The reference anticipates the instant claims insofar as it discloses a tooth whitening product comprising a film comprising a water hydratable polymer and a tooth whitening agent and a mesh comprising a plurality of fibers.

**Claim Rejections - 35 USC § 103 – Obviousness (New Rejections)**

1) Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Willison et al. (US 2004/0005277) in view of Ruben (US 6,146,655).

Willison et al. is discussed above. The reference differs from the instant claims insofar as they do not disclose the diameter of the fibers comprised in the mesh.

Ruben discloses oral bandages and drug delivery systems. The systems are gel/fiber compositions wherein the fiber is used as reinforcement to the gel. The fibers have an individual length of at least 3 mm, and preferably in the range of from about 2

mm to about 4 mm, to obtain the desired reinforcement effect. There should be at least one order of magnitude difference between the diameter and length of the fibers (col. 3, lines 35-45). It is concluded the fibers will have a diameter of at the 200 microns when the length of the fibers is 2 mm. After the kit is removed from the liquid, the tacky fiber-reinforced gel is removed from the package and envelope, and manually molded and positioned in place over a desired tissue surface in a patient's oral cavity. The fiber may be made of natural cellulosic fibers or synthetic fibers (col. 4, lines 53-65). The reference differs from the instant claims insofar as it does not teach the fibers form a mesh and the compositions include a tooth-whitening agent.

It would have been obvious to one of ordinary skill in the art to have used the made the fibers of the primary reference with certain dimensions motivated by the desire to use material that would reinforce the gel compositions with the desired reinforcement effect when wet and placed in the mouth as taught by the secondary reference.

2) Claims 21 and 23-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Willison et al. (US 2004/0005277) as applied to claims 8-10, 19, 20, 22 and 28-32 above in view Chen et al. (US 6,261,679).

Willison et al. is discussed above. The reference differs from the instant claims insofar as it does not specifically disclose the fibers comprise a hydratable polymer although it teaches the fibers are coated with a hydratable polymer.

Chen discloses hydrophilic fibers are used to make structures with good integrity and resiliency (col. 1, lines 50-55). Fiber enforced foams usually comprise hydrophobic fibers and lack high-bulk, absorbent attributes desired on an absorbent article. The structures of the reference comprise hydrophilic fibers to remedy this problem (col. 1, lines 17-39). The structures may be used as dental absorbents and medical sponges (col. 2, lines 42-60). The reference differs from the instant claims insofar as it does not disclose the structures comprise oral care agents such as whitening agents.

It would have been obvious to one of ordinary skill in the art to have used hydrophilic fibers as the scrim for the devices of Willison et al. motivated by the desire to increase the integrity and resiliency of the device without subtracting from absorbent attributes desired in an absorbent material, as disclosed by Chen et al.

Claims 7-10 and 19-32 are rejected.

No claims allowed.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LEZAH W. ROBERTS whose telephone number is (571)272-1071. The examiner can normally be reached on 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frederick F. Krass can be reached on 571-272-0580. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1612

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Lezah W Roberts/  
Examiner, Art Unit 1612

/Frederick Krass/  
Supervisory Patent Examiner, Art Unit 1612